

EXECUTIVE OFFICE OF THE PRESIDENT

BUREAU OF THE BUDGET

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CIRCULAR NO. A-19
Revised

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Procedures for the coordination and clearance of agency recommendations on proposed, pending and enrolled legislation

1. Purpose. This Circular consolidates the Bureau of the Budget's general instructions to the agencies on the legislative coordination and clearance process. It supersedes Circular No. A-19 (revised September 12, 1956), Circular No. A-9 (revised July 2, 1956), and Circular No. A-42 (February 14, 1957), which are hereby revoked. It also includes instructions on the preparation of agency legislative programs, which have previously been incorporated in Circular No. A-11, Instructions for the preparation and submission of annual budget estimates.

At the direction of the President, the Bureau of the Budget performs legislative coordination and clearance functions which have the purpose of assisting the President in developing his position on legislation, making known the administration's position on particular legislation for the guidance of the agencies and information of Congress, assuring appropriate consideration of the views of all affected agencies, and assisting the President with respect to his action on enrolled bills.

2. Definitions. The following definitions apply herein:

Advice: Information transmitted to an agency by the Bureau stating the relationship of particular legislation and reports thereon to the program of the President or stating the views of the Bureau as a staff agency for the President with respect to such legislation and reports.

Agency: Any executive department or independent commission, board, bureau, office, agency, Government-owned or controlled corporation, or other establishment of the Government, including regulatory commission or board, and also the municipal government of the District of Columbia, but not including agencies of the legislative or judicial branches of the Government.

Enrolled bill: A bill passed by both Houses of Congress and presented to the President for his action.

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Proposed legislation: A draft bill with supporting documents which an agency wishes to present to Congress for its consideration, or any legislative proposal included in an annual or special report or in other written form which the agency proposes to transmit to the Congress or make available to the public.

Report: Any written expression of official views on pending bills or resolutions prepared by an agency for (a) transmittal to any committee, member, or officer of Congress or (b) presentation as testimony before a congressional committee.

The terms "proposed legislation" and "report" do not include justifications for appropriations or proposals for reorganization plans.

3. Agency legislative programs. Agencies shall prepare annually proposed legislative programs for the forthcoming session of Congress. These programs are used by White House, Bureau of the Budget, and other Executive Office staff in assisting the President in the preparation of his legislative program, annual and special messages, and the annual budget.

An agency's legislative program is to be developed before or concurrently with the preparation of its annual budget submission, and 10 copies of the program shall be transmitted to the Bureau at the same time as the annual budget submission. If an agency has no proposals to make, it will submit a statement to this effect.

The proposed program shall include all items of legislation, including proposals to repeal provisions of existing law or to extend provisions of expiring law, which an agency contemplates proposing to Congress (or actively supporting if already pending legislation) during the coming session. The decision to include an item will take into account the President's known legislative, budgetary, and other relevant policies.

The program shall also include separate lists of (a) legislative proposals under intensive consideration in an agency which have not yet reached the stage of inclusion in its proposed legislative program, and (b) all laws or provisions of law affecting an agency (whether or not the agency will propose their extension) which will expire from the end of the preceding session of Congress to the end of the next calendar year. Any laws which will expire at a still later date will also be included if special circumstances warrant their extension in the forthcoming session.

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Attachment A provides more detailed instructions as to the content and format of proposed legislative programs.

Submission of legislative proposals pursuant to this section does not constitute a request for Bureau advice. Such requests will be made in the manner prescribed in section 4.

4. Coordination and clearance of agency proposed legislation and reports. Before proposed legislation or a report (see definition of "report" for coverage) is transmitted outside the Executive Branch, the originating agency shall submit it to the Bureau for coordination and advice.

- a. Copies to be furnished. At least four legible copies of proposed legislation and reports on public bills and two copies of reports on private bills shall be furnished. Where wide circulation or expedited action may be required, the originating agency will consult in advance with the Bureau as to the number of copies to be supplied. In most instances, machine reproduced copies are necessary to assure legibility.
- b. Timing of agency requests for advice. Reports shall be transmitted to the Bureau in sufficient time (normally one month) to permit action by the Bureau to be completed prior to the date when it is necessary to transmit the reports to the Congress. Agencies will not commit themselves to forward reports or proposed legislation to Congress on a time schedule which does not allow orderly coordination and clearance to take place. Agencies will state in their letters of transmittal to the Bureau any information on congressional schedules and requirements which bears upon the urgency of their reports or proposed legislation. Where unforeseen congressional deadlines make it necessary, however, expedited handling may be requested.
- c. Certain items to be included in agency submissions. When submitted to the Bureau, proposed legislation shall be accompanied by a draft of the letter which an agency proposes to send to the Speaker of the House and the President of the Senate in transmitting the draft bill. In addition, an agency will furnish background information, such as an analysis of the provisions of the proposed legislation, comparison with existing law, a statement of other agencies' interests, etc., which will be helpful in acting on its proposal. Similarly, a letter requesting

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advice on a report on pending legislation will identify previous related bills and set forth any relevant comments not included in the report itself.

In cases where a legislative proposal, either proposed or pending, would carry out a Presidential recommendation, the report or letter transmitting proposed legislation to the Congress shall include a statement identifying the recommendation and indicating the degree to which the legislation concerned will carry it out.

- d. Personnel and cost information. The Act of July 25, 1956, 70 Stat. 652 (5 U. S. C. 642a) requires that in certain cases agency reports on pending legislation and agency proposals for new legislation include estimates of additional expenditures and manpower which would result from enactment of the legislation. In order that agencies will have these requirements readily at hand for careful compliance, this statute is set forth as Attachment B.

In addition to the above requirements, an agency shall include in its letter transmitting proposed legislation or in its report on pending legislation its best estimate of the appropriations (for each of the first five years) which will be needed to carry out its responsibilities under the legislation. Similarly, if the legislation would effect savings in appropriations, increase or decrease Federal revenues, or affect the receipts or expenditures of a trust or special fund, an agency shall include its best estimate of these savings or changes. These estimates will be on a fiscal year basis.

- e. Bureau action on agency submissions. Upon receipt of an agency's proposed legislation or report, the Bureau will undertake the necessary coordination with other interested agencies. If congressional committees have not requested reports from all of the interested agencies, the Bureau will request additional agency views within specified time limits, which must be carefully observed. The Bureau will consult with the President, when appropriate, and undertake such staff work for him as may be necessary in co-operation with other Presidential staff. It may call on

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the originating agency for additional information or arrange interagency meetings to exchange views, resolve differences of opinion, or to clarify the factual situation.

When coordination has been completed, the Bureau will transmit advice to the appropriate agencies, either in writing or by telephone. In transmitting advice, the Bureau will indicate any considerations which it believes the originating agency should or may wish to take into account before submitting its proposed legislation or report to the Congress.

- f. Agency action on receipt of advice from the Bureau. To make the record clear and to prevent misunderstanding, an agency shall state in its report or letter transmitting proposed legislation to the Congress the advice which it has received from the Bureau.

In the case of reports on pending legislation, receipt of advice contrary to the views expressed by an agency does not require the agency to modify its views. In such cases, however, the agency will review its position in the light of the advice received. If it decides to modify its views after consideration of the advice received, it shall consult with the Bureau informally to determine what change, if any, in the advice previously received would be appropriate. If the agency's views are not modified, the advice received from the Bureau shall be incorporated in full.

In the case of proposed legislation, the originating agency shall incorporate in its letter of transmittal to the Congress the advice received from the Bureau. However, an agency shall not submit to Congress any proposal which it has been advised is in conflict with the program of the President.

When an agency, upon receipt of advice, transmits its proposed legislation or report to the Congress, it will furnish a copy to the Bureau.

- g. Agency action where prior clearance has not been effected. When congressional time schedules do not allow an agency to obtain advice from the Bureau prior to the transmittal of its report to the Congress, the agency shall so state in its report and shall indicate that consequently no

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determination has been made as to the relationship of the pending legislation or its report thereon to the program of the President. Four copies of the report in such cases will be transmitted to the Bureau at the same time that transmittal is made to the Congress. The Bureau will subsequently furnish advice in appropriate cases, and the agency shall transmit this advice promptly to the Congress.

In cases where an agency has not submitted a report for clearance and its views on pending legislation are to be expressed in the form of oral testimony, the Bureau will undertake, upon request by the agency, such coordination and give such advice as the circumstances permit. In presenting its oral testimony, the agency shall indicate what advice, if any, has been received from the Bureau. If none has been obtained, the agency will so indicate.

Agencies shall not submit to Congress, on their initiative or with their endorsement, proposed legislation which has not been coordinated within the Executive Branch in accordance with the provisions of this Circular. However, agencies need not submit for clearance draft bills which are prepared as a drafting service for a congressional committee or member of Congress, provided no commitment is made with respect to the position of the President or the agency. A copy of such draft bill and the accompanying letter will be furnished to the Bureau.

- h. Transmittal of agency communications to the Congress. All agencies shall observe the explicit instructions of House Rule XL and Senate Rule VII and forward proposed legislation or various reports required to be made under statutory provisions to the Speaker of the House and the President of the Senate.

These instructions do not require that reports which have been requested by Committee Chairmen on bills and resolutions pending before their Committees be sent to the Speaker of the House and the President of the Senate. Such reports will be transmitted directly to the requesting Committees.

- i. Interagency consultation. In carrying out its legislative functions, each agency is encouraged to consult with other agencies concerned in order that all relevant interests and points of view may be considered and accommodated, where appropriate, in

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the formulation of the agency's position. Such consultation is particularly important in cases of overlapping interests, and intensive efforts should be made to reach interagency agreement before proposed legislation or reports are transmitted to the Bureau.

Interagency committees and other arrangements for joint consultation may often be useful in reaching a common understanding. However, in order that the President may have the individual views of the responsible heads of the agencies, any proposed legislation or reports so coordinated shall be transmitted to the Bureau by the individual agencies involved with appropriate reference to the interagency coordination which has taken place.

As an additional means of effecting interagency coordination, the Bureau will from time to time furnish the agencies with lists of the liaison officers who have been designated by their agencies to handle the coordination of legislative matters. An agency will promptly notify the Bureau of a change in its liaison officer.

- j. Reclearance requirements. The advice received from the Bureau generally applies to all sessions of each Congress, but does not carry over from one Congress to the next. Accordingly, an agency does not need to seek reclearance of a report on which it has already received advice before making the same report on identical bills introduced in the same Congress, unless changed conditions indicate that reclearance is appropriate. It shall, however, include in its subsequent reports appropriate reference to the advice received on its original report. It will also transmit one copy of any subsequent report to the Bureau at the same time that it is transmitted to Congress.

If an agency wishes to request reclearance of a draft bill or report, identical or substantially identical to one cleared for transmittal to a previous Congress, its request should be transmitted in a form similar to that illustrated in Attachment C. Submittal of lists of bills or reports for this purpose is discouraged because each item must be handled separately in the Bureau.

Clearance of written testimony before a congressional committee on pending legislation is not necessary if an agency has already received advice on a written report on

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the same legislation and the testimony simply enlarges on the report and raises no new issues. Similarly, clearance of a report is not necessary if an agency has already received advice on written testimony on the same legislation and the report simply confirms the testimony. A copy of the report or testimony will be furnished to the Bureau.

- k. Use of no comment reports. As a general rule, an agency will submit a no comment report only when it has no interest in the pending legislation or nothing to contribute by way of informed comment. An agency will submit such a report for normal clearance, unless a different procedure is informally arranged with the Bureau. In either event, one copy of each such report will be furnished to the Bureau at the time it is transmitted to Congress.

5. Enrolled bills. Under the Constitution, the President has 10 days (including holidays but excluding Sundays) to act on enrolled bills after they are presented to him. To provide the fullest possible opportunity for Presidential consideration, enrolled bills must be accorded top priority.

- a. Initial Bureau action. The Bureau will obtain facsimiles of enrolled bills from the Government Printing Office and immediately forward one facsimile to each interested agency, requesting the agency's views concerning the bill and its recommendation for Presidential action.
- b. Agency action. Each agency receiving such a request shall immediately prepare a views letter and transmit it in duplicate to the Bureau not later than 48 hours (excluding Sundays) after receipt of the facsimile. Because of the definitive nature of Presidential action on enrolled bills, agency views letters shall be signed by a Presidential appointee. The letters will be delivered by special messenger to the Bureau staff member indicated in the request for views.

Agency views letters on enrolled bills are transmitted to the President and will be written with the objective of assisting him in reaching a decision. Each letter will therefore be complete in itself and will not incorporate by reference earlier reports.

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The letters will contain (1) an analysis of the features of the bill (this is primarily the responsibility of the agency having the principal interest), (2) where appropriate, a comparison of the bill with administration proposals on the same subject, (3) such comments, criticisms, analyses of benefits and shortcomings, or special considerations as will assist the President in reaching a decision, (4) identification of factors which make it necessary or desirable for the President to act by a particular date, (5) an estimate by any agency responsible for operations under the bill (or if there are no operations by the major interested agency) of the first-year and recurring costs or savings under the measure, and (6) a specific recommendation as to action by the President.

Letters recommending disapproval must be accompanied by a proposed veto message or memorandum of disapproval, in quadruplicate, prepared on legal-size paper and double-spaced. Such a message or memorandum shall be a finished product in form and substance which can be used by the President without further revision.

Agencies may wish, in exceptional cases, to recommend issuance of a signing statement by the President. Letters so recommending must be accompanied by a draft of such statement, in quadruplicate.

Letters on private bills shall cite, where appropriate, precedents which support the action recommended by the agency or which need to be distinguished from the action so recommended.

Views letters on enrolled bills are treated as privileged communications and agencies will be guided accordingly in determining their content.

- c. Subsequent Bureau action. The Bureau will transmit to the President the agency letters, together with a covering memorandum, not later than the fifth day following receipt of the enrolled bill at the White House.

By direction of the President:

MAURICE H. STANS
Director

Attachments

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